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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,553	03/04/2005	Mark Durfield	265491US6PCT	9237

22850 7590 11/23/2009  
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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REDMAN, JERRY E

ART UNIT	PAPER NUMBER
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3634

NOTIFICATION DATE	DELIVERY MODE
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11/23/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/526,553	<b>Applicant(s)</b> DURFIELD ET AL.	
	<b>Examiner</b> Jerry Redman	<b>Art Unit</b> 3634	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-30, 32, 33 and 35-41 is/are pending in the application.
- 4a) Of the above claim(s) 24, 26 and 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-23, 25, 27, 28, 30, 32, 33 and 35-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

The request filed on 10/30/2009 for a Request for Continuing Examination (RCE) under 37 CFR 1.114 is acceptable and an RCE has been established. Any previous finality is hereby withdrawn and a new action on the merits follows. Any newly-submitted claims have been added. An action on the RCE follows.

The status of the claims is as follows:

Claims 1-19, 31, and 34 have been cancelled;

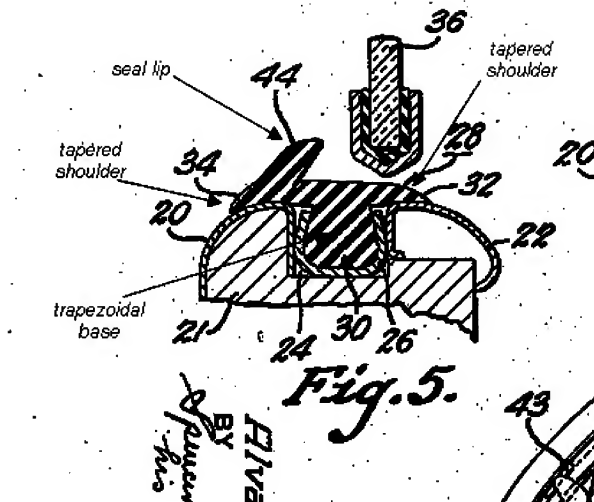
Claims 24, 26, and 29 have been withdrawn from consideration; and

Claims 20-23, 25, 27, 28, 30, 32, 33, 35-41 (41 newly added) are herein addressed below.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 20-23, 25, 27, 28, 30, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott (2,172,091) in view of Royce et al. (4,233,780). As shown below, Schott ('091) discloses a plastic/rubber seal having tapered shoulders, a sealing lip, and a base having a trapezoidal solid base.



All of the elements of the instant invention are discussed and shown in figure 5 above except providing the seal to have a shore hardness between 40 and 60. Royce et al. (4,233,780) disclose a seal having a shore hardness of 45 (column 2, line 21). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the seal of Scott ('091) with a shore hardness of 45 as taught by Royce et al. (4,233,780) since the shore hardness of seals are well known and would have been a matter of design choice. Furthermore, the seal of Scott ('091) would operate equally as well with a shore hardness of 45.

Claims 33 and 35-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott (2,172,091) in view of Kennedy (5,584,143). All of the elements of the

instant invention are discussed in detail above except providing the seal to be mounted on an edge of a double pane glass panel. Kennedy ('143) discloses a double panel glass panel assembly having a seal attached to an end of the panel. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the seal of Scott ('091) to be used on a double pane glass assembly as taught by Kennedy ('143) since a double pane glass assembly allows one to see through the panel and still seal the periphery about the glass pane assembly.

The applicant's arguments have been considered but all are not deemed persuasive. With respect to the applicant's arguments that Scott fails to recite the flexible portions having a shore A hardness between 40-60, the Examiner agrees. But, as clearly discussed in the 35 U.S.C 103 above, Royce et al. disclose a sealing portion having a hardness between 40-60. Furthermore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the seal of Scott with a hardness between 40-60 since it is well known to form weather seals with different hardness's bases on experimental and scientific data and desirability, as well as the environment. *There is nothing novel about forming a weather-strip having a Shore A hardness between 40-60.*

With respect to claim 33, the applicant again argues the references individually and not the combination thereof. When the weather-strip of Scott is inserted between two panes of glass, the trapezoidal shape (being wider than the opening) would be compressed and provide friction between the two panes thereby holding the seal in a

fixed position between the two panes of glass. To provide a weather-strip between two panes of glass and/or provide two panes of glass with a trapezoidal shape weather-strip at the end of the two panes of glass would have been obvious to one of ordinary skill in the art at the time of the invention. One would easily look to Scott and Kennedy to provide a trapezoidal shaped weather-strip at the ends of and in between two panels of glass.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Redman whose telephone number is 571-272-6835. The examiner can normally be reached on M-TH from 8 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Mitchell, can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jerry Redman/  
Primary Examiner, Art Unit 3634